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According to Jeane Kirkpatrick,

> In this violent century, more millions of people have died at the hands of their governments than in war. The lack of great marches and the absence of international campaigns make it easy to miss or to forget that the greatest number of mass murders have been conducted by governments against their own unarmed populations: in the man-made famine of the Ukraine, in Stalin's gulag, in the Holocaust, in Pol Pot's murderous "utopia," in China's Cultural Revolution, in Ethiopia's "villagification" program. Additional thousands of people have been slaughtered by Uganda's Idi Amin, by the Syrians at Hama, by the Ayatollah Khomeini, and by the Argentine generals in the "dirty war."[1]

In a period of fervent discussion on the definition of *terrorism*, the above reflection has to be borne in mind. For the student of low-intensity conflicts, it is, however, both an important and confusing reflection. On the one hand, it is unquestionable that the rulers of various countries have used "terror" for centuries against their civilian populations. On the other hand, it has often been raised that "state terror" and "terrorism" have little spiritual kinship and that "terrorist" methods of combating "state terror" help to mix up the terrorists with the freedom fighters.[2]

In lieu of all the disputes centered around the more detailed definition of terrorism, most of the experts seem to accept several constitutive components of this phenomenon. Jordan J. Paust wrote,

> Happily, such a descriptive and neutral definition of terrorism can be identified. It would recognize that "terrorism" involves the intentional use of violence, or the threat of violence, by a precipitator (the accused) against an instrumental target in order to communicate to a primary target a threat of future violence, so as to coerce the primary target through intense fear or anxiety in connection with a demanded political outcome.[3]

In addition, U.S. law defines both terrorism and international terrorism. The 1984 Act to Combat International Terrorism provides that an "act of terrorism" means an activity that (1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any state, or that would be a criminal violation if

committed within the jurisdiction of the United States or of any state; and (2) appears to be intended (a) to intimidate or coerce a civilian population; (b) to influence the policy of a government by intimidation or coercion; or (c) to affect the conduct of a government by assassination or kidnaping.[4] The Foreign Intelligence Surveillance Act of 1978 used the same definition to describe *international terrorism,* adding that the acts should "occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum."[5]

Terror is a different form of violence. It is state-controlled similar to international state-sponsored terrorism, and it is aimed at noncombatant targets, most often at a civilian population. In terror activities, however, the distinction between instrumental and primary targets vanishes; the civilian population appears to be a primary not an instrumental target of violence.

Terror is usually applied by the governments with the use of regular or irregular (but legally formed) combatant units. Terrorism is the use of violence or threat of violence by *noncombatant units,* most often individuals or groups of individuals who are recognized by *jus in bello* as neither lawful nor unlawful combatants. Beyond all the confusion caused by the Geneva Protocols of 1977, the doctrine of international law still emphasizes strongly the distinction between lawful and unlawful combatants. The group of lawful combatants includes "regular" and "irregular" fighters such as the army, police, militia, volunteer corps legally formed by the government, etc. The members of both (regular and irregular) groups might be deprived of the status of privileged combatants if they do not meet the jus in bello requirements concerning responsible command, arms distinctions, acceptable targets of attack, etc. Civilians who participate in conflicts at their own risk are unlawful combatants. It has been frequently said that there is no rule that participation of civilians in a war is *ipso facto* a war crime. However, some of the acts and conducts of civilian participants are deemed crimes by international or municipal law: the perpetrators might be regarded not only as "unlawful combatants," who do not enjoy the privileges granted by the rules and customs of war, but as common criminals. This is the case of terrorism.[6]

So, while terrorism is *de jure* illegal and terrorists are criminal fighters, terror may be legitimate and illegitimate. In accordance with the principle of the exclusive competence of the state in regard to its own territory, terror is an application of violence by legitimate organs and as such is used in the name of the law. Recently, however, it is more often recognized that the state's sovereignty is not absolute and that the state cannot act with disregard of the fundamental human rights. In essence, this means that the noncompliance of the state with human rights law may be recognized as illegitimate on the ground of international law.[7]

This relatively clear-cut distinction between "terror" and "terrorism" disappears when we realize that governments may use noncombatant, quasi-terrorist units to terrorize their own civilian population, silence dissidents, or eliminate political opponents. The examples of political assassinations or murders sponsored or ordered by the state leaders are especially multitudinous in Soviet history: the most spectacular events were the assassination of Sergei Kirov in 1934, the Katyn massacre in 1940, the murder of Leon Trotsky in 1940, and the killing Stefan Bandera in 1959.[8] In the introduction to John Barron's *KGB: The Secret Work of Soviet Secret Agents,* Robert Conquest wrote,

> We read in this book not only about the KGB's espionage and terrorist activities in the noncommunist countries but also of its role at home as an organ of

> mass repression. The secret battle being waged continuously on our own territory, full of dramatic surprises and revelations, may strike us the more vividly . . . but it is worth remembering that the major part of the KGB's effort, the greater number of its employees, are used in the massive and continuous work against its own populations.[9]

The examples of state-sponsored domestic terrorism are perhaps less spectacular but are by no means rare in the glasnost era. The press, agitated by Gorbachev's policy of "openness," pays little attention to still frequent violations of human rights by Soviet and Eastern European governments. The student of international human rights can find rare comments that, for example, Czech police used force to disrupt "peace" demonstrations shortly after the East-West Accord on Human Rights was signed in Vienna in January 1989,[10] that a "refusenik protest in Moscow was disrupted by Soviet 'peace' activists," or that almost every day the specially trained troops of plainly clothed "outraged citizens" from Liubercow (a suburb of Moscow) come to the Soviet capital's downtown to "settle matters with pro-Western hippies." The fact that several of the "outraged citizens" or "peace activists" have been identified by participants as undercover officers who have broken up other demonstrations is hardly known.[11] The examples of these incidents can be multiplied and are by no means limited to the socialist hemisphere. Simply, to work out effective political and legal instruments necessary to combat terrorism and protect human rights, it is essential to observe these changing strategies in the low-intensity conflicts of our time. Due to its close kinship with terrorism, state-sponsored domestic violence warrants special consideration.

Poland—The Case of Father Jerzy Popieluszko

Setting of the Case: Political Motive

The Polish crisis of 1980 demonstrated the close ties between the independent trade union Solidarity and the Catholic hierarchy. Workers openly identified their program with moral values represented by the Catholic Church. Religious symbols, crosses, portraits of the pope and Cardinal Wyszynski were displayed in the factories and shipyards during strikes. Solidarity leaders openly went to confession and communion. Cardinal Wyszynski received strikers at an informal audience, and he and other church officials did not conceal their sympathy with the workers' movement. Both workers and clergy benefited from this candor. Solidarity gained the support of the most influential anti-Communist institution, the Church. Thanks to the claims of workers, the Church gained the powerful position of mediator between Solidarity and the government and, along with it, the right to broadcast Catholic masses each Sunday, greater access to the media, and permission to build new churches.

The imposition of marital law placed the Communist government and the Church in a very difficult position. The military government, suitable only for a state of emergency, soon manifested its ineffectiveness in the face of grave economic, social, and international problems. The more profound the difficulties of a state, the more acute the problems become under military rule. The longer a military regime endures, the more its officers find it necessary to eliminate radical opponents and compromise with moderate elements in society.

The imposition of martial law intensified the process of the Communist Party's

isolation from society. Even old communists, disappointed in Jaruzelski's policy, expressed opposition. The many resignations of party members deprived the Polish Communist Party of its (relatively) better elements.

The Church, following a wait-and-see policy, stiffened its attitude and began to criticize the policies of the Military Council more openly. The position of the Catholic hierarchy was, however, awkward. On the one hand, it did not want to lose the extraordinary position of influence gained over the preceding two years. Archbishop Glemp, who replaced Cardinal Wyszynski after his death, seemed to be aware of the great risks facing the Church. The Church could easily bring down upon itself the same persecution as Solidarity had. The regime could subvert the influence of religion by coercion, by forbidding the building of churches, or even by closing the Catholic university.

On the other hand, the Catholic hierarchy, traditionally sensitive to Poland's relationship with the Soviet Union, felt its social position imperiled and feared that tighter control by Moscow over the Polish economy might be followed by an antireligious policy typical of the Stalinist period.

The Church openly condemned martial law and the terror of the military junta, but it did not exhort the people to resistance. Rather, it tried to calm the tensions in Poland, and Archbishop Glemp reiterated in his homilies that "the Church could not be a tool, either in the hands of social groups or of the state."[12] He stated that anger is a bad counselor and that the people and the government should return to the path of dialogue.

Sermons of other bishops were sometimes more militant. "The church had been with the nation for the last thousand years," said Bishop Tokarczuk, "and the church will go with the nation for better or worse. No one should have any illusions that manipulation of excerpts from homilies of the Holy Father, the Primate or other bishops could split the church from the nation, or workers from farmers. A Pole will never accept the role of a slave or an object."[13]

Local clergy even more openly supported workers who initiated or participated in street-fighting with police. Local churches and presbyteries served as refuges for leaders of Solidarity and places where underground publications were distributed. Some priests were imprisoned; others visited internment camps or tried to help the families of those arrested. In 1984, the Polish Ministry for Religious Affairs signaled in numerous memoranda that "the churches are used as the places where demonstrations and marches to the national shrines are organized."[14]

Priests offered sermons for the fatherland, which frequently turned into anticommunist manifestoes.[15] The official attempts of the Ministries of Internal Affairs and Religious Affairs to curb the clergy's activity were ineffective. Amnesty for political activists, offered by Jaruzelski's government, hampered the plan to charge the clergy for alleged participation in anticommunist cooperation with foreign "special services."[16] The infuriated regime was determined to resort to "special means" of silencing priests who seemed to be out of governmental control.

The Victim and the Terrorist Action

The plans, or rather the series of alternative actions to intimidate the clergy, were considered by the officers of the Polish Ministry of Internal Affairs. As targets of attack, the Ministry considered the most radical priests: Rev. Malkowski, Rev. Jankowski, and Rev. Popieluszko. All were charged with the "misuse of priestly functions for politically damaging purposes," particularly for characterizing the socialist system as a totalitarian regime (Malkowski) and for the contribution to the development of anticommunist social

attitudes.[17] Given the fact that both Malkowski and Jankowski were forbidden by Cardinal Glemp to offer sermons in the Warsaw district, they were recognized as less "dangerous" than Popieluszko.[18] As Jan Olszewski, the auxiliary prosecutor, stated during the trial of Popieluszko's kidnappers, "the victim was selected with cold blood."[19] The plan of "silencing" Popieluszko was formulated in one of the departments of the Ministry of Internal Affairs, directed by Adam Pietruszka, and later commissioned to the special group commanded by the chief of one of the department's divisions, Captain Grzegorz Piotrowski. Piotrowski, together with his subordinates, Leszek Pekala and Marek Chmielewski, considered several alternative plans of "intimidation" of Popieluszko.

First, they fabricated materials of an alleged affair between Popieluszko and an unidentified woman. As Pietruszka testified during his trial, the plan was given up because "the woman was married and stability or matrimonial union was recognized as a superior value in the communist country."[20] When the later plan to cause a car accident failed, Piotrowski decided to kidnap the priest.[21] On the night of October 20, 1984, Piotrowski and two other terrorists stopped the priest's car driven by his friend, ex-parachutist bodyguard Waldemar Chrostowski, and forced both to move to the Ministry-owned car (with changed license plates), where the victims were handcuffed and gagged. Later, Chrostowski managed to jump out of the speeding car and was able to notify Church authorities about the kidnaping. Father Popieluszko, with bound hands and feet, was beaten with a wooden club and placed in the car's trunk with a halter fastened to his neck. The body of the priest was found in the reservoir at Wloclawek, 80 miles northwest of Warsaw. To make the pretense of a "non-political" motivation for the kidnaping, the terrorists sent Bishop Wladyslaw Miziolek a demand to pay $50,000 ransom for Popieluszko's release. Further attempts to mislead regular investigators who began to work under the Church's pressure were ineffective. On October 23, 1984, Piotrowski, Chmielewski, and Pekala were arrested. On December 27, 1984, they stood trial before the district court in Torun.

Political Outcome: Instrumental and Primary Targets

"I did not care about Popieluszko," testified Piotrowski. "He violated the law and I was enraged that the justice was helpless. But, in fact, it was not a question of Reverend Popieluszko."[22] Piotrowski and other terrorists claimed that, in spite of the deceptive actions which followed the murder of the priest, they were politically motivated. The indictment reads,

> In G. Piotrowski's opinion, the violent actions taken by him with the participation of L. Pekala and W. Chmielowski were to intimidate other priests involved in similar activity as Popieluszko. The action was also to break the passiveness of the Church hierarchy, stimulate the dialogue of the Church with the government and persuade the Church officials to curb the Popieluszko-kind [*sic*] activities. For these reasons, Piotrowski believed that his action did not fall within the category of political provocation directed against the government, but contrary, that he acted in the interest of the government.[23]

The perpetrators denied any personal biases against the priest. They simply "tried to

eliminate his politically destructive activity"; their motives and outcome were purely political.[24]

The trial did not provide clear evidence of direct links of the perpetrators to the leaders of the government or the Communist Party. The indictment concluded that "the evidence did not provide information as to the inspiration of Director Pietruszka by other persons."[25] Pietruszka's superiors are referred to during the trial as "General P." or "Deputy Minister C." Divergences in the lines of the defense of Pietruszka and Piotrowski contributed to numerous speculations as to the possible initiators of the action. Piotrowski claimed that "the criminal scheme was master-minded from 'above,'" which could mean either General Jaruzelski's immediate circles or the general's hard-line opponents.[26] Pietruszka testified that the kidnapping and murder of the priest were "a political provocation directed against the political line of the government."[27] The action was meant to intimidate the opposition and convince it that the government was determined to resort to illegal terrorist methods. The official uniforms of the militia used during the action and the militia emblems purposefully left near Popieluszko's abandoned car were to suggest that the act was committed by the officers of the intelligence service.

On the other hand, the evidence of militia cooperation was also left so awkwardly that it brought the official investigators to the conclusion that the act was orchestrated by the underground opposition and the evidence was fabricated to confuse the procurator. As Jan Olszewski argued, "the blood which was shed was to set in motion the mechanism of repression and resistance. The crime was to activate the mechanism of terror applied by both government and Solidarity."[28]

Conclusion

"The murder of the Rev. Jerzy Popieluszko," wrote Norman Davies, "was far more than an incident in contemporary Polish politics. It was a landmark event symbolizing the present condition of divided Europe, its eastern half submerged under an alien sea for more than 40 years."[29] In fact, the murder in Poland was by no means a separate act. Early in 1989, three activist priests died under suspicious circumstances within weeks of each other; but the government denied responsibility this time, and the Church, preoccupied with the process of its legalization, has played down the cases.[30] To mention one more incident, in October 1987, Czech police reluctantly appealed for help in tracking down the murderers of a Slovak Roman Catholic priest, Stefan Polak, who was beaten so brutally that his relatives were unable to recognize his body immediately. The autopsy was reported to have shown that he died from internal injuries to his spleen and liver. Western analysts have drawn comparisons between the murder of Polak and the murder of the Popieluszko.[31] There is no need to multiply these examples[32]; we have to keep them in mind, however, when we claim the Soviet Union, Eastern Europe, and Eastern-Central Europe to be the areas with the fewest terrorist incidents. State-sponsored domestic terrorism is not a new method of violence; although often overlooked by the students of low-intensity conflicts, it is an important strategy which bears all major characteristics of terrorism: politically motivated violence, the existence of instrumental and primary targets, political outcome, etc.

In the past, state-sponsored domestic terrorism was more often applied in the transitory periods of the competition for power when the ruling regime did not feel secure enough to apply terror openly. In the recent era of intensified struggle for the better

protection of human rights, it has become a successful supplementary instrument of violence used with impunity against political opponents. Domestic government-sponsored terrorism is not a proof that our world is less aggressive; it provides an argument that it may be aggressive in a different way and that these different strategies of violence should be carefully studied.

Notes

1. J. Kirkpatrick, "Above All, Human Rights," *Washington Post,* Jan. 23, 1980.
2. See R. R. Ludwikowski, "Who is Terrorizing Whom?" in "Aspects of Terrorism," *Terrorism* 10 (1987): 81–82.
3. J. J. Paust, "Symposium: Terrorism and the Law," *Conn. L. Rev* 19, (1987): 701.
4. Pub. Law No. 98-533 (98th Congress, Oct. 19, 1984, #3077).
5. Pub. Law No. 95-511 (95th Congress, Oct. 25, 1978, #101 [c] [3]).
6. See R. Bindschedler, *Report of the Conference on Contemporary Problems of the Law of Armed Conflicts* (New York: Carnegie Endowment for International Peace, 1971), pp. 42, 78. See also Ludwikowski, "Aspects of Terrorism: Personal Reflections," *Terrorism* 10 (1987): 179–180.
7. See R. Lillich and F. Newman, *International Human Rights: Problems of Law and Policy,* (Boston: Little, Brown, 1979), pp. 484–544; N. Ronzitti, *Rescuing Nationals Abroad through Military Coercion and Intervention on Grounds of Humanity,* (Dordrecht: Martinus Nijhoff, 1989), pp. 89–134.
8. See J. K. Zawodny, *In the Forest. The Story of the Katyn Forest Massacre,* (South Bend, IN: Notre Dame University Press, 1980); V. Kravchenko, *I Chose Freedom* (New Brunswick, NJ: Transaction Books, 1989), pp. 167–177; and Claire Sterling *The Time of the Assassins,* p. 125 (1983).
9. J. Baron, *KGB. The Secret Work of Soviet Secret Agents,* XI (1981).
10. J. Kirkpatrick, "Above All, Human Rights."
11. Bohlen, "Soviet Agents Disrupt Protest in Moscow," *Washington Post,* December 7, 1987; "Liuberowcy," *Magazyn Polski,* Aug. 1987.
12. The sermon was delivered in Czestochowa on July 26, 1982. *Solidarnosc. Biuletyn Informacyjny* (37) (October 10, 1982).
13. The sermon was delivered on May 9, 1982, *Solidarnosc. Biuletyn Informacyjny* (37) (Oct. 10, 1982).
14. Pro Memoria of Minister for Religious Affairs of May 2, 1984; see also Pro Memoria of Mar. 22, 1984 and Jan. 27, 1984, published in *Tygodnik Powszechny* (4) (Jan. 27, 1985). The minutes of the trial of the murderers of Rev. Popieluszko were published by the reporter for the Polish Church Jack Ambroziak in *Tygodnik Powszechny* (2-8), Jan. 13–Feb. 24, 1985.
15. *Tygodnik Powszechny* (5).
16. *Tygodnik Powszechny* (4).
17. *Tygodnik Powszechny* (5).
18. *Tygodnik Powszechny* (4).
19. *Tygodnik Powszechny* (3).
20. *Tygodnik Powszechny* (5).
21. One week before the kidnaping, Piotrowski tried to hit Popieluszko's car with a big stone. He missed, however, when Popieluszko's driver drove the car toward the attacker. See Indictment, third charge against Piotrowski, *Tygodnik Powszechny* (2).
22. *Tygodnik Powszechny* (5).
23. Indictment, *Tygodnik Powszechny* (2).
24. Ibid.
25. Ibid.
26. See N. Davies, Review of the book "The Priest and the Policeman," *The New York Times*

Book Review, Mar. 15, 1987, p. 9; see also the concluding speech of Jan Olszewski, an auxiliary prosecutor, *Tygodnik Powszechny* (2).

27. Indictment, *Tygodnik Powszechny* (2).

28. Ibid.

29. N. Davies, Review of "The Priest and the Policeman," p. 9.

30. A. D. Horne, "Death of 3 Priests Kindles Public Suspicion," *Washington Post,* Aug. 4, 1989, p. A26; J. Diehl, "Church is Legalised in Poland," *Washington Post,* May 18, 1989.

31. "Czechoslovak Track Cleric's Murderers," *Insight,* Nov. 16, 1987, p. 7.

32. For further examples of state-sponsored terrorism, see the case of Kaihdar Yakyayev, a former interior minister of Uzbekistan, who has been described by Soviet journalists as "a sadist" and an "executioner." For scarce comments on his and Yuri Churbanov's trials, see *Washington Post,* Sept. 9, 1988. See also E. Tudomanyegyetem, *Eletrajzok a Bolsevizmus tortenetebol* (1987); R. Conquest, *The Great Terror* (New York: Macmillan, 1968). J. Fishman and B. Hutton *The Private Life of Josif Stalin* (London: W. H. Allen, 1962); "Murder Plot Fears," *The Free Romanian* 4(10) (Oct. 1988); E. Cody, "Police Accused in Basque Killing Probe," *Washington Post,* Jan. 22, 1989, p. A30.